

To: Albano, Emily[Albano.Emily@epa.gov]; Bond, Shannon[bond.shannon@epa.gov]; Bryan, David[Bryan.David@epa.gov]; Carey, Curtis[Carey.Curtis@epa.gov]; Castro, Toni[Castro.Toni@epa.gov]; Fenton, Kathleen[Fenton.Kathleen@epa.gov]; Juett, Lynn[Juett.Lynn@epa.gov]; Kessler, Martin[Kessler.Martin@epa.gov]; Lancaster, Kris[Lancaster.Kris@epa.gov]; Morrison, Denise[Morrison.Denise@epa.gov]; Peterson, Mary[Peterson.Mary@epa.gov]; Quirarte-Ortiz, Cecilia[Quirarte-Ortiz.Cecilia@epa.gov]; R7 Deputies[R7_Deputies@epa.gov]; R7 Senior Staff[R7_Senior_Staff@epa.gov]; Sanders, LaTonya[Sanders.Latonya@epa.gov]; Washburn, Ben[washburn.ben@epa.gov]; Whitaker, Dianna[Whitaker.Dianna@epa.gov]; Whitley, Christopher[Whitley.Christopher@epa.gov]
From: Washburn, Ben
Sent: Mon 3/23/2015 9:48:33 PM
Subject: OPA Daily Digest 3/23/15

OPA Daily Digest for 3/23/15

Congressional Inquiries:

Rep. Rod Blum (IA) – Email – 3/23/15: Concerns about the cost for the city of Calmar to upgrade their wastewater treatment plant. Due: 3/26/15. Contact: LaTonya Sanders, 7555 (open)

State Government Inquiries:

Rep. Bill Otto – Email – 3/23/15: Questions from Harvey Ferdman regarding citizen science air monitoring program. Contact: Ben Washburn, 7364 (open)

Press Inquiries:

Al-Jazeera America – Ryan Schuessler – 3/16/15: Questions regarding the West Lake landfill in Bridgeton, Mo. Contact: Ben Washburn, 7364 (open)

KCTV Channel 5, Kansas City – Brix Fowler – 3/23/15: Questions about an EPA grant to study emissions from barbecue grills. Referred to Headquarters OPA. Contact: Chris Whitley,

7394 (closed)

Environmental Stories:

Wall Street Journal - Litigation Awaits New EPA Emissions Rules | Power Plants and their backers allege agency didn't consider the cost - 3/22/15 - —The Obama administration's initiatives to reduce air pollution have fared well in several hard-fought legal battles, but a new round of court challenges could determine whether the White House's most ambitious efforts will survive. <http://www.wsj.com/articles/litigation-awaits-new-epa-emissions-rules-1427052313>

NOTE: Paywall issues may keep you from seeing this article. Full text is included at the end of this email.

Washington Post - Harvard law profs spar over EPA's 'Clean Power' plan - 3/21/15 - Harvard law professor Laurence Tribe's testimony garnered attention because he challenged the lawfulness of EPA plans and raised several constitutional concerns. Tribe's testimony, and his suggestion that the EPA's climate plans involved "burning the Constitution," also prompted some pushback. <http://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/03/21/harvard-law-profs-spar-over-epas-clean-power-plan/>

Associated Press - Kansas Legislature mulls slashing green energy incentives - 3/21/15 - Renewable energy groups say two proposals in the Kansas Legislature would threaten the young industry's existence by shortening a lifetime property tax exemption for wind and solar farms and imposing a 4.33 percent excise tax on ethanol fuel and renewable electricity. <http://www.chron.com/business/energy/article/Kansas-Legislature-mulls-slashing-green-energy-6149768.php>

Omaha World-Herald - New saltwater disposal well plan in Nebraska Panhandle becomes a proxy fight over fracking - 3/22/15 - A small Colorado oil company's attempt to ignite oil and gas exploration in northwest Nebraska has instead sparked a grass-roots firestorm. http://www.omaha.com/news/metro/new-disposal-well-plan-in-nebraska-panhandle-becomes-a-proxy/article_ac667ca7-09d3-54cd-a827-79b54b18ce25.html

Scottsbluff Star Herald (Neb.) - AWTRY: Nebraska, can you see the warning lights

flashing? – 3/21/15 - I may not be the brightest bulb in the chandelier, but over the years I have learned not to stick my finger in the light socket. I also learned that it may be a bad idea to inject 420,000 gallons per day of toxic fracking wastewater directly through and below the Ogallala Aquifer, but as I said, what do I know? http://www.starherald.com/opinion/awtry-nebraska-can-you-see-the-warning-lights-flashing/article_41dca650-aa32-5bf7-8e7d-19dd77abebf6.html

Des Moines Register - Water problems go deeper than dirty water - 3/21/15 - There's a definite link between field tiles and the water quality problems in Iowa. But I'm surprised no one is talking about the greater problem with tiling.
<http://www.desmoinesregister.com/story/opinion/readers/2015/03/22/water-problems-go-deeper-dirty-water/25168395/>

NOTE: Paywall issues may keep you from seeing this article. Full text is included at the end of this email.

KRCG Ch. 9 Cedar Rapids, Iowa - Farmers, conservationists look at ways to control runoff and flooding - 3/20/15 - Flood control involves more than just building walls and berms. And conservationists interested in seeing how farmers can help reduce runoff from fields and flooding downstream got a chance to do just that on Friday.
<http://www.krcg.com/subject/news/farmers-conservationists-look-at-ways-to-control-runoff-and-flooding-20150320>

Des Moines Register - Opinion: How filling up can make a difference - 3/20/15 - Every day millions of Americans fill up at the pump and make a choice that can really make a difference. There's one simple task all of these diesel users can do to vastly improve air quality and the environment around them: Choose biodiesel.
<http://www.desmoinesregister.com/story/opinion/readers/2015/03/21/filling-can-make-difference/25117617/>

NOTE: Paywall issues may keep you from seeing this article. Full text is included at the end of this email.

Des Moines Register - Letter: Much has changed since Grandpa farmed - 3/21/15 - When I sit down with my 90-year-old grandpa and listen to how things used to be, I think about how farming was less complex for him than it is for me.

<http://www.desmoinesregister.com/story/opinion/readers/2015/03/22/much-changed-since-grandpa-farmed/25168411/>

NOTE: Paywall issues may keep you from seeing this article. Full text is included at the end of this email.

Des Moines Register - Ethanol debate could come to a head in Washington this year -

3/21/15 - The ethanol and oil industries have dug in for what could be a pivotal year for the future of the renewable fuel mandate in Washington, with the victor poised to add jobs and reap millions in profits at the expense of their bitter rival.

<http://www.desmoinesregister.com/story/money/agriculture/2015/03/21/ethanol-debate-washington/25090145/>

NOTE: Paywall issues may keep you from seeing this article. Full text is included at the end of this email.

Omaha World-Herald - Editorial: Grow the pie in agriculture - 3/21/15 - When a community plans for its economic future, two of the questions it needs to ask itself are these: What are our strengths? And what are some smart strategies to build on them? The Greater Omaha Area Chamber of Commerce has asked those questions, identified a key strength and developed a sound way forward to bolster it. The local economic niche being targeted: agribusiness. http://www.omaha.com/opinion/world-herald-editorial-grow-the-pie-in-agriculture/article_5afd0b04-5b4f-5a9c-98fc-c9a71dcb29b9.html

Environmental Leader - Fracking Rule Requires Chemicals Disclosure - 3/23/15 - The US Interior Department on Friday released final standards for hydraulic fracturing on public and American Indian lands. <http://www.environmentalleader.com/2015/03/23/fracking-rule-requires-chemicals-disclosure/>

Midwest Energy News - Natural gas or renewables? New model helps states decide - 3/23/15 - Shifting natural gas prices are making it a challenge for states to place their bets on the most cost-effective and least risky ways to comply with impending carbon regulations. <http://www.midwestenergynews.com/2015/03/23/natural-gas-or-renewables-new-model-helps-states-decide/>

Bloomberg - Oil Industry Meets First Federal Fracking Rules With a Lawsuit - 3/20/15 - U.S. drillers already reeling from a six-month drop in oil prices denounced new U.S. fracking regulations as costly and unnecessary, and quickly met them with a lawsuit.

<http://washpost.bloomberg.com/Story?docId=1376-NLIHT86S973601-1QCDB459INN7FK375BM6SHK42I>

Inside Climate - New Federal Fracking Rules Draw Swift Response - 3/20/15 - The Interior Department's new regulations are quickly opposed by oil and gas industry groups, but environmental groups say they don't go far enough.

<http://insideclimatenews.org/news/20032015/new-federal-fracking-rules-draw-swift-response>

Energy Collective - Land, Ocean Carbon Sinks Are Weakening, Making Climate Action More Urgent - 3/22/15 - We are destroying nature's ability to help us stave off catastrophic climate change. That's the bombshell conclusion of an under-reported 2014 study, "The declining uptake rate of atmospheric CO2 by land and ocean sinks," as coauthor Dr. Josep (Pep) Canadell recently explained to me.

<http://theenergycollective.com/josephromm/2204391/bombshell-land-ocean-carbon-sinks-are-weakening-making-climate-action-more-urgent>

Associated Press - 'Green' diesel use plummets in U.S. - 3/22/15 - Climate-friendly, low-carbon renewable energy used in the U.S. isn't just wind and solar. Renewable or "green" diesel fuel made mostly of plant oils, algae or animal fat is considered to be in that category, too.

<http://www.seacoastonline.com/article/20150322/NEWS/150329894/101146/NEWS>

Huffington Post (blog) - The Rebirth of Environmental Change - 3/22/15 - Mankind is frequently unaware of the damages we are doing to the wildlife around us. From air pollution causing acidic clouds to the mass removal of rainforests, I feel that the public is uninformed of the long-term effects our decisions have on the global environment.

http://www.huffingtonpost.com/ef-education-first/the-rebirth-of-environmental-change_b_6914530.html

Breaking Energy - Reducing Carbon Pollution From The Power Sector Without Building Thousands Of Miles Of New Pipelines - 3/20/15 - With the Environmental Protection Agency's proposed Clean Power Plan to reduce carbon pollution from the nation's power plants nearing finalization, all sides are looking closely at the capacity of our existing infrastructure to deliver emission reductions from the power sector.

<http://breakingenergy.com/2015/03/20/reducing-carbon-pollution-from-the-power-sector-without-building-hundreds-of-miles-of-new-pipelines/>

Christian Science Monitor - The next big energy boom? Storage – 3/23/15 - Installed capacity of energy storage is expected to more than triple over the next five years, according to a new report. <http://www.csmonitor.com/Environment/Energy-Voices/2015/0323/The-next-big-energy-boom-Storage>

Christian Science Monitor - Energy in a thirsty world [Recharge] - 3/23/15 - Why the future of energy is inextricably linked to the future of water; A double dip in the oil markets; Energy politics heat up in Washington. <http://www.csmonitor.com/Environment/Energy/2015/0323/Energy-in-a-thirsty-world-Recharge>

Christian Science Monitor - Can new federal rules make fracking safer? (+video) - 3/20/15 - For the first time in three decades, the US is updating its federal oil and gas regulations on fracking. But will measures on chemical disclosure, waste water disposal, and well integrity make fracking safer? <http://www.csmonitor.com/Environment/Energy/2015/0320/Can-new-federal-rules-make-fracking-safer-video>

Brownfield Ag News - Iowa Egg Council not surprised by study - 3/23/15 - Egg-laying hens kept in conventional cages do not show a higher degree of stress than those housed in cage-free systems. That's one of the conclusions coming out of a major research study on hen-housing systems. <http://brownfieldagnews.com/2015/03/23/iowa-egg-council-not-surprised-study/>

Environmental Leader - Ford Uses Recycled Materials in 2015 F-150 - 3/23/15 - Ford will use Repreve fiber, made from 100 percent recycled materials including plastic bottles, in its 2015 F-150. The automaker says this will divert more than 5 million plastic bottles from landfills this year. <http://www.environmentalleader.com/2015/03/23/ford-uses-recycled-materials-in-2015-f-150/>

New York Times - Editorial: Clean Air Act and Dirty Coal at the Supreme Court - 3/23/15 - The name of the law at issue before the Supreme Court on Wednesday is the Clean Air Act. It is not the Coal Industry Protection Act, despite what that industry's advocates seem to want the justices to believe. <http://www.nytimes.com/2015/03/23/opinion/clean-air-act-and-dirty-coal-at-the-supreme-court.html>

Minneapolis Star-Tribune - Reroute oil trains? History suggests it's a long shot - 3/21/15 -
Last week, U.S. Sen. Al Franken asked the Federal Railroad Administration to consider rerouting trains carrying volatile Bakken crude oil from North Dakota so they do not pass through Minnesota's biggest cities. Industry says reinforced cars on current routes are better than trying to avoid heavily populated areas. <http://www.startribune.com/business/297072351.html>

Associated Press - Kansas Legislature mulls slashing green energy incentives - 3/22/15 -
Renewable energy groups say two proposals in the Kansas Legislature would threaten the young industry's existence by shortening a lifetime property tax exemption for wind and solar farms and imposing a 4.33 percent excise tax on ethanol fuel and renewable electricity.
<http://www2.ljworld.com/news/2015/mar/22/kansas-legislature-mulls-slashing-green-energy-inc/>

Phys.org - Mimicking nature's chemistry to solve global environmental problems - 3/23/15 -
"Our goal is to answer the questions: How do you take the sea of gases that makes up our atmosphere and convert that into liquid fuels?" Betley says. "Or how do you remediate greenhouse gases and turn them into something usable for the chemical industry?"
<http://phys.org/news/2015-03-mimicking-nature-chemistry-global-environmental.html>

The Hill - 3/23/15 – Supreme Court to Hear Challenge to EPA Power Plant Regs – 3/23/15 -
The Supreme Court will hear arguments Wednesday in a case that challenges one of the Obama administration's most significant environmental regulations. In Michigan v. Environmental Protection Agency, states and industry groups are asking the justices to overturn the EPA's 2011 mercury and air toxics standards limiting certain air pollutants from coal-fired power plants.
<http://thehill.com/policy/energy-environment/236466-week-ahead-supreme-court-to-hear-challenge-to-epa-power-plant-regs>

Greenwire - Producers tell judges that EPA rule is 'impossible' - 3/20/15 - A coalition of ethanol producers Friday sought to convince a federal appeals court that U.S. EPA's rules for curbing sulfur in gasoline are "logically impossible to satisfy."
<http://www.eenews.net/greenwire/stories/1060015466/>

E&E Daily - Efficiency to be first piece of Senate energy package, potentially complicating water heater bill - 3/20/15 - The Senate Energy and Natural Resources Committee is expected to begin assembling its wide-ranging energy legislation as soon as next month with a markup focused on energy efficiency -- one of four titles expected to be included in a final

bill.<http://www.eenews.net/eedaily/stories/1060015425/>

E&E Daily - White House reg shop a 'troubled agency' -- former boss - 3/20/15 - The White House regulatory review office is hurting due to staffing and resource constraints, the agency's former leader told lawmakers yesterday. <http://www.eenews.net/eedaily/stories/1060015420/>

Greenwire - Oil industry groups sue EPA for failing to set biofuel goals - 3/20/15 - Oil industry groups this week sued U.S. EPA for failing to establish annual biofuel mandates under the renewable fuel standard program. <http://www.eenews.net/greenwire/stories/1060015464/>

Greenwire - EPA to require electronic reporting of emissions data - 3/20/15 - U.S. EPA today said it plans to require industrial facilities to submit certain air emissions data electronically, part of a larger agency shift to bring environmental regulation into the 21st century. <http://www.eenews.net/greenwire/stories/1060015459/>

E&E Daily - States' 'no' gives courts time to kill power rule -- McConnell - 3/20/15 - The Senate's top Republican advised states again yesterday not to submit implementation plans for U.S. EPA's Clean Power Plan, predicting that the rule would not survive judicial review. <http://www.eenews.net/eedaily/stories/1060015424/>

Press Releases:

Link to all R7 press releases: <http://go.usa.gov/Qx5>

None

Fact Sheets:

Link to all R7 fact sheets: <http://www.epa.gov/region7/factsheets>

None

Upcoming Administrator/RA Events:

* New additions noted with an asterisk

3/18-19-15 – Environmental Council of the States, Washington, D.C. Contact: Julia Cacho, 7071

5/13/15 – Midwest Environmental Compliance Conference, Overland Park, Kan. Contact: Dave Cozad, 7587

***6/23-24/15** – Four State Directors Meeting, Moravia, Iowa. Contact: Dick Sumpter, 7661

DRA:

3/18-19-15 – Environmental Council of the States, Washington, D.C. Contact: Julia Cacho, 7071

3/19/15 – Kickapoo Visit and EJ Presentation, Horton, Kan. Contact: Patrick Bustos, 7969

***6/23-24/15** – Four State Directors Meeting, Moravia, Iowa. Contact: Dick Sumpter, 7661

RA/Immediate Office

None

Other Events

AWMD

3/24/2015 – Attending East-West Gateway meeting, St. Louis, Mo. Contact: Heather Hamilton, 7039.

3/26/2015 – Attending the Iowa Emergency Response Commission meeting, Des Moines, Iowa. Pat Reitz, 7674.

CNSL

None

ECO/EJ

3/24/2015 – Meeting with NDEQ & City of Norfolk, Norfolk, Ne. Contact: Pamela Houston, 7699

3/22-4/3/2015 – Federal Executive Institute Training, Charlottesville, Va. Contact: DeAndre Singletary, 7373

3/27/15 –Historic Northeast Neighborhood Association Community meeting, Kansas City, Ks. Contact: Tamara Freeman, 7094

4/22/15 – Boys and Girls Club Meeting, St. Louis, Mo. Contacts: Tamara Freeman, 7094; Pamela Houston, 7699

ENSV

None

PLMG

None

RA/OPA

3/22-4/3/15 – Federal Executive Institute Training, Charlottesville, Va. Contact: Curtis Carey, 7506

SUPR

***3/24-25/15** – Regional Incident Steering Committee at FEMA, Kansas City, Mis. Contact: Scott Hayes, 7670.

3/24/15 – The EPA will meet with NDEQ and city personnel to discuss the IA/NE Light & Power Co. FMGP site status and the NPL process in Norfolk, Neb. Contact: Owens Hull, 7226.

3/24/15 - Omaha / Council Bluffs Sub-Area Meeting, Omaha, NE. Contact: Megan Schuette, 7630.

WWPD

3/18-20/15 – Meet with EPA Region 6 to gain Safe Drinking Water Information System knowledge, Dallas, Tex. Contacts: Kim Willis-Burr, 7069, Jay Hua, 7748

3/19/15 – Water Resources Coordinating Council, Des Moines, Iowa. Contacts: Karen Flournoy, 7782, Jeff Robichaud, 7146

3/31-4/1/15 – American Water Works Association Annual Meeting speaker, Osage Beach, Mo. Contact: Neftali Hernandez-Santiago, 7036

4/9/15 – Missouri Safe Drinking Water Commission Meeting, St. Joseph, Mo. Contact: Neftali Hernandez-Santiago, 7036

5/1-4/15 – River Network River Rally 2015, Santa Ana Pueblo, N.M. Contact: Roberta Vogel-Leutung, 7072

5/11-14/15 – Data Managers User Conference for the Safe Drinking Water Information System, Denver, Colo. Contacts: Kim Burr, 7069, Jay Hua, 7748

Des Moines Register -

Letter: Water problems go deeper than dirty water

By Tim Stouffer, West Des Moines

3/21/15

There's a definite link between field tiles and the water quality problems in Iowa. But I'm surprised no one is talking about the greater problem with tiling. By draining all the areas that were sloughs, wetlands or simply low spots, our deep aquifers are not being allowed to recharge. It's not unusual to see tile outlets running 24/7, 365 days a year, most likely pulling water from natural springs that would have created sloughs or marsh areas.

Aside from the fact that field tiles add to flooding problems during wet periods, they don't allow ground water to seep back into the deep water table. It takes many years for moisture to work its way down to the deep aquifers. Just in the news recently it has been discussed that there may be a need to limit water drawn from the Jordan Vein, one of Iowa's most important water resources.

The legislative acts that established drainage districts were created more than 100 years ago. Times have changed, populations have changed, and farming practices have changed. If the state doesn't do something to change how field tiling is managed, we'll have more than dirty water to worry about, we'll have to figure where to get our water.

The Farm Bureau and the ag department will disagree with most everything I've said here. Yes, the change would mean many acres would need to be taken out of production. Yes, there are many farmers who will have losses in land values and not have as many acres from which to earn a living. I'm not a hydrologist or a geologist, just a guy who's worried about where my grandchildren are going get water to live.

Des Moines Register

Opinion: How filling up can make a difference

By T.J. Page, Iowa Renewable Fuels Association

11:12 p.m. CDT March 20, 2015

Every day millions of Americans fill up at the pump and make a choice that can really make a difference.

Iowa's farmers are already making commitments to reduce their impacts on the environment through many state initiatives and practices, like Iowa's nutrient reduction program and new tilling techniques, to name a few. Truckers are also continuously implementing new practices and using new products to minimize their footprint, but there's one simple task all of these diesel users can do to vastly improve air quality and the environment around them: Choose biodiesel.

Biodiesel is an environmentally friendly, locally produced advanced biofuel that reduces greenhouse gas emissions by 56 to 86 percent. In fact, biodiesel has already cut 75.5 million metric tons of carbon pollution.

That's like removing 15.9 million cars from American roads — or planting 1.9 billion trees — or preserving 61.9 million acres of mature forests.

What's more, biodiesel increases lubricity, lessens our dependence on foreign sourced petroleum, and can be used in diesel engines without modification.

So, as we wrap up our National Agriculture Day and National Biodiesel Day celebrations this week, the Iowa Renewable Fuels Association is reminding all of our farmers, truckers, and diesel vehicle owners to make the right choice, and choose the fuel that's better for Iowa, better for your engine, and better for the environment.

Des Moines Register

Letter: Much has changed since Grandpa farmed

By Waylon Brown, St. Ansgar

11:17 p.m. CDT March 21, 2015

When I sit down with my 90-year-old grandpa and listen to how things used to be, I think about how farming was less complex for him than it is for me. All a farmer needed then was a team of horses, a few pieces of equipment, and a bag of seed.

Today we have tractors that steer themselves and rely on precision agriculture; we can test our soil and apply only the amount of nutrients needed, where it is needed. I am a fourth-generation farmer, and I take the responsibility of conservation seriously.

On our farm we have many grass waterways and berms to keep the soil in the fields and control erosion. Despite what critics say, we have come a long way in conservation and nutrient reduction with effective conservation practices outlined in the Iowa Nutrient Reduction Strategy.

There is always more work to be done. The answer won't come through endless legal battles; it will come when all parties work together for new and innovative ways to improve conservation.

One example, Avery Brewing Co. in Boulder, Colo., has partnered with the city wastewater treatment plant to provide brewing byproducts that will reduce nitrates at the treatment facility and save ratepayers over \$50,000 annually.

I believe with continued outside-the-box thinking and continued Conservation Cost Share funding, we will continue to make great strides in water quality and conservation. A lot has changed since my grandpa's day, but the one thing that hasn't is farmers' love for the land and the responsibility of caring for God's creation entrusted to us.

Wall Street Journal

Litigation Awaits New EPA Emissions Rules

Power plants and their backers allege agency didn't consider the cost

By BRENT KENDALL and AMY HARDER

March 22, 2015 3:25 p.m. ET

WASHINGTON—The Obama administration's initiatives to reduce air pollution have fared well in several hard-fought legal battles, but a new round of court challenges could determine whether the White House's most ambitious efforts will survive.

The Supreme Court on Wednesday will hear argument on the Environmental Protection Agency's first-ever regulations requiring power plants to cut emissions of mercury and other toxic air pollutants. The rules, adopted in 2012 and scheduled to go into effect in April, were more than two decades in the making. The case could set important precedent on when and whether the agency needs to consider the potential regulatory costs to industries.

Then, in April, a U.S. appeals court will consider an early challenge to the EPA's proposal to slash carbon emissions from coal-fired power plants, even though the agency hasn't finished the regulations. The coming rules, which the EPA expects to complete this summer, are the center

pillar of President Barack Obama's plan to address climate change. The timing of the lawsuit is unorthodox and it faces an uphill battle, but a dozen states have lined up to try to short-circuit the EPA's plans.

Together, the lawsuits represent attacks on two of the most consequential policies of Mr. Obama's environmental agenda.

"The courts absolutely hold the key to President Obama's environmental legacy," said Thomas Lorenzen of Dorsey & Whitney LLP, a former Justice Department lawyer who supervised environmental cases.

The Supreme Court case focuses on whether the EPA acted properly when it considered only public-health risks, and not industry compliance costs, in deciding whether to require coal and oil-fired plants to cut most emissions of mercury and other hazardous air pollutants.

Coal and oil-fired power plants are the dominant U.S. emitters of mercury, which can cause serious health problems for children as well as fetuses that can absorb the neurotoxin through their mothers. The regulations require plants to install high-tech scrubber systems to remove the pollutants.

The EPA concluded that costs weren't a relevant consideration. It conducted an analysis estimating the costs to be \$9.6 billion annually while valuing the public-health improvements between \$37 billion and \$90 billion, mostly through a reduction in premature deaths. The EPA reached those numbers by measuring "co-benefits" of the emission controls, which will filter other pollutants in addition to mercury and related toxics.

A group of 21 states, including ones that rely heavily on coal for electricity, and industry groups challenged EPA's approach. The states in a court brief argued Congress "did not intend for EPA to act with deliberate indifference to cost when answering the basic regulatory question whether it is appropriate to regulate." The states said the health benefits of the regulations, when focused specifically on mercury reductions, were just \$4 million to \$6 million a year.

An EPA spokeswoman said, “We fully believe that EPA acted properly under its Clean Air Act authority in regulating harmful toxic air pollution from power plants.”

If the Supreme Court rules against the EPA, the decision wouldn’t foreclose the agency from regulating mercury, but it would have to write new rules and give industry costs greater consideration.

Carol Browner, a former EPA administrator under President Bill Clinton, said the case could have a broad impact if it forces the EPA to consider the costs of regulating even when the law doesn’t specifically require it. “To the degree that EPA cannot maintain that distinction between the scientific process and the regulatory process, that would be a big change,” said Ms. Browner, who was also a top White House adviser to Mr. Obama.

The mercury regulations also are a factor in a closely watched carbon emissions case in front of a Washington federal appeals court on April 16.

A group of states led by West Virginia, along with Ohio-based Murray Energy Corp., say the Clean Air Act prohibits certain double regulation of existing power plants. Once the EPA regulated the plants for mercury emissions under one section of the law, it couldn’t then rely upon a different, rarely used provision to regulate greenhouse gas emissions, the challengers argue.

The EPA carbon regulations, proposed last June, call for a 30% cut in power-plant carbon emissions by 2030 based on emissions levels in 2005. Though the rules won’t be completed for several more months, the challengers argue the regulations are such a dramatic, labor-intensive overhaul, they should be stopped now.

A Murray Energy spokesman said the company filed suit now because the plan “has caused, and continues to cause, immediate and substantial harm to the U.S. coal industry.”

West Virginia Attorney General Patrick Morrisey said, “Judicial relief is essential now because the mere existence and breadth of the proposal is making states and power plants expend

resources and make capital investment decisions now to comply with an illegal rule.”

Legal observers say the EPA’s carbon proposal raises tough legal questions, but it may be too soon for a court to resolve them. “It’s a real uphill battle to get a court to weigh in before an agency actually issues a final rule,” said Jeff Holmstead, a former EPA official under President George W. Bush.

The EPA called the lawsuit premature and said it would address public comments about the legality of its carbon rule when it issues it. “Courts have reaffirmed repeatedly the science, law and reasoning on which our rule making has relied,” the spokeswoman said.

Other lawsuits challenging the carbon rules are expected after the EPA finishes the regulations, and the stakes will be significant. If the administration loses, “then the rug is just completely pulled out from under everything they’ve been doing on climate change,” Mr. Holmstead said.

Des Moines Register

Ethanol debate could come to a head in Washington this year

By Christopher Doering

11:02 a.m. CDT March 21, 2015

The ethanol and oil industries have dug in for what could be a pivotal year for the future of the renewable fuel mandate in Washington, with the victor poised to add jobs and reap millions in profits at the expense of their bitter rival.

The debate centers on an 8-year-old mandate put in place by Congress known as the Renewable Fuel Standard. It requires increasingly greater amounts of alternative fuels, much of it made from corn, to be blended into millions of gallons of fuel pumped into cars and trucks by motorists each year.

Opponents of the mandate, led by the American Petroleum Institute, have stepped up pressure on the Republican-controlled Congress to rework or repeal a requirement they contend is fatally flawed and no longer works in today's changing energy landscape, saying that people are driving less and cars are more fuel-efficient.

Meanwhile, ethanol advocates are aware that if they lose this battle, they may never get another chance. Changing the mandate would affect the farmers, producers and rural Americans who have invested billions of dollars into ethanol, and it would also stunt the growth of next-generation fuels made from plant materials.

"There's no way we'll take any of this for granted. And we're pushing back," said Tom Buis, chief executive with Growth Energy, an ethanol trade group. "We're going to make this a very public campaign."

Most gasoline already contains 10 percent ethanol. The oil industry has warned that increasing the amount to 15 percent or higher — a move backed by ethanol supporters — may damage car, motorcycle and boat engines. The oil industry argues, too, that consumers have not shown a demand for these ethanol blends.

API, a trade group representing more than 600 oil and natural gas companies, also raises alarm about the "blend wall," the point at which the amount of renewable fuels required exceeds the amount blenders can reasonably mix in. Hit this wall, API argues, and there is no way the industry can blend enough ethanol to meet the ever-growing targets set by Congress in the Renewable Fuel Standard.

The Environmental Protection Agency, which has the flexibility to adjust the annual blending level under certain conditions, seemed to hint at the mandate's problems when it proposed 2014 ethanol produced from corn levels that were well below the amount initially set by Congress.

But the agency pushed back the timeline for finalizing the mandate multiple times before announcing in November it would not set the fuel standards because of widespread opposition from Midwest leaders and farm groups opposed to the cuts. The EPA is expected to announce the blending rate this spring, while at the same time proposing new standards for 2015 and 2016.

Chad Hart, an associate professor of economics at Iowa State University, said Congress "had a very aggressive, far-reaching goal" when it said the country should be producing a certain amount of its fuel from ethanol. The plunge in oil prices from more than \$100 a barrel as recently as July 2014 has left the two sides even more focused on defending their market share; both gasoline and ethanol have seen their prices erode during the drop.

"This debate was building even before energy prices started to drop, but that put a whole new layer on top of this," said Hart.

Agriculture Secretary Tom Vilsack told The Des Moines Register in January that despite its strength, the renewable fuels industry still faces significant challenges. "There's no question Big Oil is interested in limiting choices," the former Iowa governor said. "Especially as low as they are, they will increase their efforts."

Bob Greco, downstream director with the API, said repealing the Renewable Fuel Standard is one of its top priorities this year. The trade group, which is reaching out to new members of Congress on both sides of the aisle to educate them about the problems with the mandate, said it was optimistic it would be able to gain support to scrap the program.

The mandate "is a fatally flawed standard that doesn't recognize today's energy reality, and coupled with the (Obama) administration's inability to manage what they got, I think it's a very powerful incentive for Congress to move forward on this," said Greco.

"We have a Congress now that's willing to take votes and willing to consider pieces of legislation that in the past they might not have, particularly on the Senate side," he said.

The nascent 114th Congress, sworn in Jan. 6, has wasted little time trying to alter the ethanol mandate, though it's uncertain whether it will be able to muster enough support to make any meaningful changes.

A group of Republican and Democratic lawmakers in the House has proposed legislation that would do away with the corn component of the Renewable Fuel Standard and cap the amount of ethanol that can be blended into conventional gasoline at 10 percent. The same bill failed to pass two years ago. In the Senate, Pat Toomey, R-Pa., and Dianne Feinstein, D-Calif., proposed in February to eliminate the annual corn targets in the mandate.

"Few issues in Congress have such broad support for true reform," said Rep. Bob Goodlatte, R-Va., who said the "unworkable mandate" is felt by every American through higher grocery bills and wear and tear to the family car. "Growing support from lawmakers in the House and Senate, as well as a diverse coalition of over 50 organizations, signals that there is momentum in Congress to achieve real reforms of the RFS."

Ethanol supporters are confident that while pressure is mounting to change or end the Renewable Fuel Standard, the talking points used by proponents to defend ethanol — decreasing U.S. dependence on foreign oil, creation of jobs and environmental benefits — will be enough to quell any momentum to make a change.

"When you look at something, it takes a lot of power, a lot of cohesion ... if it's in Congress' hands," said Colin Johnson, a fourth-generation farmer in southern Iowa, the country's largest ethanol producer. "I'm hopeful for the sake of Iowa and rural agriculture that (the RFS) stays where it is, and I'm pretty confident that it will."

Benjamin M. Washburn

Public Affairs Specialist

EPA Region 7

(913) 551-7364